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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 09/728,794 | 12/01/2000 | Lynn T. Rowe | 98,597-B | 3095 |

7590 09/21/2006
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EXAMINER

TRAN, HAI V

ART UNIT PAPER NUMBER

2623

DATE MAILED: 09/21/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | | |
|------------------------------|--------------------------------------|------------------------------------|--|
| Office Action Summary | Application No. 09/728,794 | Applicant(s) ROWE ET AL. | |
| | Examiner Hai Tran | Art Unit 2623 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 July 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-30 is/are pending in the application.
- 4a) Of the above claim(s) 1-12, 15 and 16 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 13, 14 and 17-26 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☒ Claim(s) 27-30 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 07/10/2006 has been entered.

Response to Arguments

Applicant's arguments with respect to claims 13-14 have been considered but are moot in view of the new ground(s) of rejection.

Election/Restrictions

Newly submitted claims 27-30 are directed to an invention that is independent or distinct from the invention originally claimed for the following reasons:

Limitations in newly added claims 27-30 are derived from the previous non-elected claims 1-12 drawn to Information Distribution system delivering digital programs with a multi-screen display and GUI, classified in class 345, subclass 327.

Applicant is not allowed to switch back to a non-elected invention. Since applicant has received an action on the merits for the originally presented invention, i.e., claims 13-14 drawn to Interactive Information distribution system with a

return network and a purchasing feature, classified in class 348, subclass 12, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claims 27-30 withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

1. Claims 13-14, 17-22, and 24-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kuwabara et al. (US 5909439) in view of Townsend et al. (US 2003/0009758A1).

Claim 13, Kuwabara discloses an interactive information distribution system delivering digital program information over a large geographic area wherein the digital program information provides different broadcast TV programming to a plurality of remote locations within the geographic area (Fig.13), the system comprising:

a network operations center (Fig. 6, el. 1300) providing national programming and multiplexing interactive programming to create a digital interactive streaming media (Col.28, lines 4-15; lines 44-65); in view of Applicant 's specification, limitation "creating national programming" reads on the TV Broadcasting Transmission

System 1302 in which inherently provide National TV programs, i.e. TV programs, see Col.26, lines 58-65; Col. 27, lines 40-46 and Col. 27, lines 34-60.

a distribution system (Fig. 3, el. 1) transmitting the digital interactive streaming media to the plurality of remote locations (Fig. 3, el. 3A..N), see Col. 25, lines 49-65;

a set top application system to process the interactive programming to be displayed to viewers (Fig. 4; Col. 26, lines 65-+), wherein the interactive programming is carried by the digital streaming media and enables viewer to select displayed items for purchase, and a return network to communication transactional information from the remote location to provide interactive programming capability (Fig. 4, el. 1108 for uplink; Col. 27, lines 34-65+).

Kuwabara does not disclose a set top application system to process the interactive programming into the broadcast quality interactive programming, and wherein the broadcast quality interactive programming is media that includes full motion video suitable for display on a television.

Townsend discloses a receiver (STB) process the interactive programming into the broadcast quality interactive programming, and wherein the broadcast quality interactive programming is media that includes full motion video suitable for display on a television (see Fig. 7, el. 113; Fig. 8, el. 123; page , §0038; page 4, §0060; page 5, §0063 and §0064). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Kuwabara 's broadcast interactive programming, i.e., still image, into broadcast quality interactive

programming, i.e., full-motion video, as taught by Townsend so to entice viewer to of making use of the interactive services by providing high-quality pictures and graphics while keeping costs down, as suggested by Townsend (see page 1, §0010).

Claim 14, Kuwabara (Fig. 6; el.1314; Col. 23, lines 60-65; Col. 28, lines 8-15). in view of Townsend (see Fig. 5, 7, 8-10; page 9, §0068-0074) further discloses wherein the interactive programming offers services for purchase from commercial providers.

Claim 17, Kuwabara in view of Townsend (Fig. 7-8; page 3 §0041; page 4 §0055-0060; page 7 §0086) further discloses wherein the interactive programming includes raw data that is manipulated by the set top application system to produce the broadcast quality interactive programming.

Claim 18, Kuwabara in view of Townsend (Fig.7-8, it is known and obvious that moving video displays on TV is about 24 or about 30 frames per second; page 5 §0064) further discloses wherein the media within the broadcast quality interactive programming that includes the full motion video is media suitable for display on the television at about 24 or about 30 frames per second.

Claim 19, Kuwabara in view of Townsend (see Fig. 8 in which el. 123 is not a still picture overlaid on a television program, i.e., Specialist Holidays; page 5 §0063) further discloses wherein the broadcast quality interactive programming is not still pictures overlaid on a television program.

Claim 20, Kuwabara in view of Townsend (see Fig. 8 in which el. 123 is not a still picture overlaid on a television program, i.e., Specialist Holidays, with still graphic, i.e., el. 126,127; page 5 §0063) further discloses wherein the interactive programming includes still graphics and full-motion video.

Claim 21, Kuwabara in view of Townsend (page 4, §0060) further discloses wherein the interactive programming includes still graphics with an audio voice over.

Claim 22, Kuwabara in view of Townsend (see Fig. 7-8 with "pop-up video clips" 123 and still graphics 127,128; Note: "pop-up video clip" reads on video-clip is presented when one of the el. 126,127 is selected) further discloses wherein the interactive programming includes still graphics and pop-up video clip.

Claim 24, Kuwabara in view of Townsend (page 4 §0055-page 5 §0064 and page 7, §0086) further discloses wherein the interactive programming includes items that may be dynamically tailored interactively by a viewer.

Claim 25, Kuwabara in view of Townsend (page 5 §0064) further discloses wherein the interactive programming includes broadcast quality television rather than still graphics.

Claim 26, Kuwabara in view of Townsend (page §0064) further discloses wherein the interactive programming includes broadcast quality television and still graphics.

2. Claim 23 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kuwabara et al. (US 5909439) in view of Townsend et al. (US 2003/0009758A1) and further in view of Levitan (US 5864823).

Claim 23, Kuwabara in view of Townsend does not clearly disclose wherein the interactive programming includes a scroll bar.

Levitan discloses the use of a scroll bar on the GUI (see Fig. 4) as indicator for user that there are addition information not presented on the display. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Kuwabara in view of Townsend to include a scroll bar in the interactive service interface, as taught by Levitan so to provide to user an ability to scroll through the display via a scroll bar.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hai Tran whose telephone number is (571) 272-7305. The examiner can normally be reached on M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher S. Kelley can be reached on (571) 272-7331. The fax phone

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number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

HT:ht
09/15/2006



HAITRAN
PRIMARY EXAMINER